IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

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TUESDAY, THE SEVENTH DAY OF FEBRUARY

TWO THOUSAND AND SIX

P R E S E N T

THE HON'BLE SRI JUSTICE V.ESWARAIAH

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WP.No.2229 OF 2006

Between**:**

The Indigenous Churches in India Trust,

Hebron, Golkonda Cross Roads,

Hyderabad. … Petitioner

Versus

Visakhapatnam Municipal Corporation,

Visakhapatnam. … Respondent

Counsel for the Petitioners: Mr.S.Rajan

Counsel for the Respondents: SC for Municipal Corporation
Visakhapatnam

O R D E R :

This writ petition is filed to declare the action of the respondent in taking over the petitioner's property and demolishing the structures thereon, situated in Salem Prayer House, Block No.54, TS.No.1192-C and 1189 (East) Waltair Ward, bearing Dr.No.10-52-3, Nehrunagar, Visakhapatnam, without following due process of law and without payment of just compensation as required under law as

unconstitutional, illegal, arbitrary, discriminatory and in violation of Article 14, 21 and 300-A of the Constitution of India and consequently direct the respondent to follow due process of law besides awarding due compensation as provided under law before taking over the subject lands for the purpose of road widening.

It is stated that the petitioner is the owner of two contiguous plots of land in a total extent of 2538 sq.yards of land situated at Block No.54, TS.No.1192-C and 1189 (East) of Waltair Ward within the limits of Municipal Corporation, Visakhapatnam bearing door no.10-52-3, Nehrunagar, Visakhapatnam.

It is stated that on 04-1-2005 the respondent issued a letter bearing RC.No.04/ACP-1/Div.No.18 intimating that they are taking up the widening of the road from Raghavendra Swamy Temple to Jail Road junction from existing width of 60' to 80' and in that connection called upon the petitioner to attend a meeting. Pursuant to the said letter, the petitioner submitted a detailed reply dated 24-5-2005 inter alia that an extent of 407 sq.yards of lands would be affected for them, that if the land is acquired for the road widening purpose the remaining space would not be sufficient for their activities, therefore, the land acquisition proposal be dropped and in case the same is not feasible then suitable compensation as payable under law may be given to the petitioner's land and the structures that would be affected.

It is further stated that in spite of the reply submitted by the petitioner, the respondent failed to consider the proposal put forward by the petitioner or give any reply. When the petitioner demanded the respondent to pay compensation for the land, which in their estimate would be approximately 1.2 crores i.e., @ Rs.30,000/- per sq.yard for 405 sq.yards going by the market rate and a further sum of about four lakhs for the

structures, the respondent has refused to pay the same and instead the respondent is bent upon to take over the land without any authority and without following due process of law.

On the other hand, the learned standing counsel for the respondent submits that the respondent made a request to the petitioner to hand over the land through letter bearing RC.No.04/ACP-1/Div.No.18 intimating that they are taking up the widening of the road from Raghavendra Swamy Temple to Jail Road junction from existing width of 60' to 80' and in that connection the respondent called upon the petitioner to attend a meeting. However, they will only follow due process of law before acquiring the land in question.

No doubt widening/laying of the road is in the public interest. While laying the road, if any property of private individual is coming in the way, it is for the respondent to acquire the same either by way of initiating land acquisition proceedings or by following due process of law.

Having regard to the facts and circumstances of the case, the respondent is directing the respondents not to demolish the structures or take away any portion of the property of the petitioner and not to dispossess the petitioner without following due process of law under Sections 146 and 147 of the Act or private negotiations or initiating the proceedings under the Land Acquisition Act, 1894.

With the above direction, the writ petition is disposed of. No costs.

FEBRUARY 7th, 2005. ----------

I s L. V. ESWARAIAH, J.

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